

## REMARKS

This Response is submitted in reply to the Office Action dated October 4, 2005. Applicants have amended Claims 1, 26 and 31. No new subject matter has been added to the Claims. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment in connection with this Response.

The Office Action stated that the above-titled application contains Claims directed to the following patentably distinct species of the claimed invention:

Group I, illustrated in Figure 4 and described in Claims 1-4, 8-15, 26, 27, 29, 31, 32 and 34;

Group II, illustrated in Figure 6 and described in Claims 7, 16, 17 and 18;

Group III, illustrated in Figure 7 and described in Claims 6, 24, 25, 30 and 35; and

Group IV illustrated in Figure 8 and described in Claims 5, 19-23, 28 and 33.

Applicants hereby affirm the election of Group I, Claims 1-4, 8-15, 26, 27, 29, 31, 32 and 34. Claims 5-7, 16-25, 28, 30, 33 and 35 stand withdrawn, though Applicants reserve the right to reinstate such Claims in a form depending from any allowed generic Claim.

The Office Action rejects Claims 1-3, 8-12, 26, 27, 29, 31, 32 and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,229,901 to Mickelson (“Mickelson”). Applicants disagree with such rejection of Claim 8-12 for the reasons provided below. Applicants have made certain amendments to independent Claims 1, 26 and 31 to overcome the rejection of Claims 1-3, 26, 27, 29, 31, 32 and 34.

With respect to Claim 8, the Office Action stated that distal end, proximate end and middle portion of Mickelson’s sound guide (12) read on the first tubular portion, third tubular portion and second tubular portion, respectively, of Claim 8. Applicants submit that sound guide (12) does not include a tubular portion according to the ordinary meaning of “tubular.” Without limiting the meaning of “tubular,” Applicants refer to The American Heritage® Dictionary of the English Language, Fourth Edition (“Dictionary”) to demonstrate one definition of this term. According to the Dictionary, “tubular” means “of or relating to a tube,” and “tube” means:

1.
  - a. A hollow cylinder, especially one that conveys a fluid or functions as a passage.
  - b. An organic structure having the shape or function of a tube; a duct: *a bronchial tube.*

2. A small flexible cylindrical container sealed at one end and having a screw cap at the other, for pigments, toothpaste, or other pastelike substances.
3. Music. The cylindrical part of a wind instrument.
4. Electronics.
  - a. An electron tube.
  - b. A vacuum tube.
5. Botany. The lower, cylindrical part of a gamopetalous corolla or a gamosepalous calyx.
6. Chiefly British.
  - a. An underground railroad tunnel.
  - b. An underground railroad system, especially the one in London, England.
7. A tunnel.
8.
  - a. An inner tube.
  - b. An inflatable tube or cushion made of rubber or plastic and used for recreational riding, as behind a motor boat or down a snow-covered slope.
9. Informal.
  - a. Television: *What's on the tube?*
  - b. A television set.
10. tubes Informal. The fallopian tubes.

The basis of Mickelson's device is "an acoustically reflective surface 11 formed as part of a sound guide 12 . . ." (Mickelson, Column 2, Lines 43-44). The cross-sectional view of guide (12), shown in Fig. 3a of Mickelson, illustrates that the guide (12) has a bowl shape. Mickelson's guide (12) is not a tube and does not have a tubular shape. Applicants further submit that, for these reasons, Mickelson's guide (12) does not define an opening, as defined by Claim 8. Accordingly, Applicants submit that Claim 8 (and Claims 9-12 which depend therefrom) are not anticipated by Mickelson, and Applicants respectfully request the withdrawal of the Office Action's rejection of Claims 8-12.

Amended Claim 1 (and Claims 2-3 which depend therefrom) are directed to a device having, among other elements, a sound director with a tubular portion. For the reasons provided above with respect to Mickelson, Applicants respectfully submit that Claims 1-3 are in condition for allowance.

Amended Claim 26 (and Claims 27 and 29 which depend therefrom) are directed to a method involving, among other steps, using a second portion where the second portion has a tubular shape. For the reasons provided above with respect to Mickelson, Applicants respectfully submit that Claims 26, 27 and 29 are in condition for allowance.

Amended Claim 31 (and Claims 32 and 34 which depend therefrom) are directed to a method involving, among other steps, using a mechanical head set to direct a portion of vocal sound through a tubular channel to at least one ear of the user. For the reasons provided above with respect to Mickelson, Applicants respectfully submit that Claims 31, 32 and 34 are in condition for allowance.

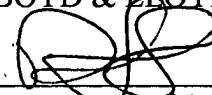
The Office Action rejected Claims 4 and 13-15 under 35 U.S.C. § 103(a) as being unpatentable over Mickelson in view of U.S. Published Patent Application No. 2002/0131616 to Bronnikov (“Bronnikov”). Applicants respectfully disagree with such rejection of Claims 13-15 which depend from Claim 8. Bronnikov does not disclose, among other elements, the first, second and third tubular portions defined by Claims 13-15. For the reasons provided above with respect to Mickelson, the combination of Bronnikov and Mickelson does not disclose, teach or suggest the device defined by Claims 13-15. Accordingly, Applicants submit that Claims 13-15 are patentable over such combination, and Applicants respectfully request the withdrawal of the Office Action’s rejection of Claims 13-15.

Claim 4 depends from amended Claim 1 which includes, among other elements, a sound director having at least one tubular portion. With respect to the Office Action’s rejection of Claim 4, Bronnikov does not disclose such a sound director having such a tubular portion. For the reasons provided above with respect to Mickelson, the combination of Bronnikov and Mickelson does not disclose, teach or suggest the device defined by Claim 4. Accordingly, Applicants respectfully submit that Claim 4 is in condition for allowance.

For all of the reasons provided above, Applicants respectfully submit that the Claims submitted herewith are in condition for allowance. An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Amendment, the Applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,

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